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ENGROSSED SUBSTITUTE SENATE BILL 5207

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State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Franklin and Kohl-Welles)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to individually identifiable DNA testing  
2 information; amending RCW 70.02.010 and 70.83.050; and adding a new  
3 chapter to Title 70 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.02.010 and 1993 c 448 s 1 are each amended to read  
6 as follows:

7 As used in this chapter, unless the context otherwise requires:

8 (1) "Audit" means an assessment, evaluation, determination, or  
9 investigation of a health care provider by a person not employed by or  
10 affiliated with the provider to determine compliance with:

11 (a) Statutory, regulatory, fiscal, medical, or scientific  
12 standards;

13 (b) A private or public program of payments to a health care  
14 provider; or

15 (c) Requirements for licensing, accreditation, or certification.

16 (2) "Directory information" means information disclosing the  
17 presence, and for the purpose of identification, the name, residence,  
18 sex, and the general health condition of a particular patient who is a

1 patient in a health care facility or who is currently receiving  
2 emergency health care in a health care facility.

3 (3) "General health condition" means the patient's health status  
4 described in terms of "critical," "poor," "fair," "good," "excellent,"  
5 or terms denoting similar conditions.

6 (4) "Health care" means any care, service, or procedure provided by  
7 a health care provider:

8 (a) To diagnose, treat, or maintain a patient's physical or mental  
9 condition; or

10 (b) That affects the structure or any function of the human body.

11 (5) "Health care facility" means a hospital, clinic, nursing home,  
12 laboratory, office, or similar place where a health care provider  
13 provides health care to patients.

14 (6) "Health care information" means any information, whether oral  
15 or recorded in any form or medium, that identifies or can readily be  
16 associated with the identity of a patient and directly relates to the  
17 patient's health care. The term includes any record of disclosures of  
18 health care information. The term includes genetic test information  
19 from a person's isolated DNA and a person's DNA when obtained at the  
20 request of a health care provider or health care facility.

21 (7) "Health care provider" means a person who is licensed,  
22 certified, registered, or otherwise authorized by the law of this state  
23 to provide health care in the ordinary course of business or practice  
24 of a profession.

25 (8) "Institutional review board" means any board, committee, or  
26 other group formally designated by an institution, or authorized under  
27 federal or state law, to review, approve the initiation of, or conduct  
28 periodic review of research programs to assure the protection of the  
29 rights and welfare of human research subjects.

30 (9) "Maintain," as related to health care information, means to  
31 hold, possess, preserve, retain, store, or control that information.

32 (10) "Patient" means an individual who receives or has received  
33 health care. The term includes a deceased individual who has received  
34 health care.

35 (11) "Person" means an individual, corporation, business trust,  
36 estate, trust, partnership, association, joint venture, government,  
37 governmental subdivision or agency, or any other legal or commercial  
38 entity.

1 (12) "Reasonable fee" means the charges for duplicating or  
2 searching the record, but shall not exceed sixty-five cents per page  
3 for the first thirty pages and fifty cents per page for all other  
4 pages. In addition, a clerical fee for searching and handling may be  
5 charged not to exceed fifteen dollars. These amounts shall be adjusted  
6 biennially in accordance with changes in the consumer price index, all  
7 consumers, for Seattle-Tacoma metropolitan statistical area as  
8 determined by the secretary of health. However, where editing of  
9 records by a health care provider is required by statute and is done by  
10 the provider personally, the fee may be the usual and customary charge  
11 for a basic office visit.

12 (13) "Third-party payor" means an insurer regulated under Title 48  
13 RCW authorized to transact business in this state or other  
14 jurisdiction, including a health care service contractor, and health  
15 maintenance organization; or an employee welfare benefit plan; or a  
16 state or federal health benefit program.

17 NEW SECTION. **Sec. 2.** The legislature finds that:

18 (1) The technology of deoxyribonucleic acid (DNA) identification is  
19 of great potential benefit to the citizens of this state in many  
20 fields, including human services and health care, scientific research,  
21 criminal justice, and corrections;

22 (2) Technology is changing and improving at an ever-increasing  
23 rate;

24 (3) DNA technology is particularly important in assisting law  
25 enforcement in identifying and apprehending repeat criminal offenders  
26 as well as exonerating those people convicted and incarcerated for a  
27 crime they did not commit;

28 (4) There are legitimate concerns for privacy rights in the  
29 creation, collection, maintenance, disclosure, identification, and use  
30 of DNA;

31 (5) Protections of citizens' civil rights and individual privileges  
32 necessitate policy development of protections preventing the  
33 unauthorized use of DNA and the use of DNA for discriminatory purposes;  
34 and

35 (6) There is a need to address the potential future uses of DNA  
36 that may benefit citizens of this state, for purposes of the health,  
37 safety, and welfare of its citizens.

1        NEW SECTION.    **Sec. 3.**    A DNA commission is established to consist  
2 of twenty-eight members selected as follows:

3        (1)(a) Two members of the senate, appointed by the president of the  
4 senate, one from each of the two largest caucuses; and

5        (b) Two members of the house of representatives, appointed by the  
6 co-speakers of the house of representatives, one from each of the two  
7 largest caucuses;

8        (2) The following members shall be appointed by the governor:

9        (a) Two members representing local public health;

10       (b) One member representing genetic counselors;

11       (c) One member representing clinical research;

12       (d) One member representing epidemiological research;

13       (e) One member representing the Human Genome project;

14       (f) One member representing genetic ethics;

15       (g) One member representing institutional review boards;

16       (h) Two members representing geneticists, one clinical and one  
17 research;

18       (i) One member representing research institutions;

19       (j) One member representing civil rights advocates;

20       (k) Two members representing criminal justice and corrections;

21       (l) Two members representing privacy advocates;

22       (m) One member representing citizens who have undergone genetic  
23 testing;

24       (n) One member representing hospitals;

25       (o) One member representing pathologists or laboratory medicine;

26       (p) One member representing the biotechnology industry;

27       (q) One member representing the judiciary;

28       (r) One member representing the state crime laboratory;

29       (s) One member representing a rural health care provider; and

30       (t) One member representing a primary care physician.

31       The commission shall be appointed within forty-five days from the  
32 effective date of this act.    Staffing shall be provided by the  
33 legislature.    Members shall serve without remuneration, except costs  
34 may be provided according to the provisions of RCW 43.03.050 and  
35 43.03.060.

36       NEW SECTION.    **Sec. 4.**    The DNA commission shall:

37       (1) Develop a statewide strategy for evaluating and recommending  
38 public policies relating to the use of DNA;

1 (2) Conduct a survey and produce a resource guide for citizens  
2 relating to the use of DNA;

3 (3) Evaluate methods for protecting an individual's privacy  
4 interests in his or her DNA;

5 (4) Analyze the incidence of discriminatory actions statewide based  
6 upon genetic information;

7 (5) Develop recommendations relative to civil rights' protections  
8 as they relate to genetic information;

9 (6) Analyze available remedies to compensate individuals for the  
10 inappropriate use of their genetic information;

11 (7) Identify appropriate disincentives to improper use of DNA;

12 (8) Identify incentives for further research and development in the  
13 area of DNA that promotes public health, safety, and welfare; and

14 (9) An initial report of its findings and recommendations shall be  
15 provided to the appropriate committees of the legislature by July 1,  
16 2003.

17 NEW SECTION. **Sec. 5.** The following acts or parts of acts, as now  
18 existing or hereafter amended, are each repealed, effective June 30,  
19 2008:

20 (1) Section 2 of this act;

21 (2) Section 3 of this act; and

22 (3) Section 4 of this act.

23 **Sec. 6.** RCW 70.83.050 and 1967 c 82 s 5 are each amended to read  
24 as follows:

25 The state board of health shall adopt rules and regulations  
26 necessary to carry out the intent of this chapter. Rules adopted by  
27 the state board of health must protect an individual's confidentiality  
28 of his or her genetic information obtained under this chapter.

29 NEW SECTION. **Sec. 7.** Sections 2 through 5 of this act constitute  
30 a new chapter in Title 70 RCW.

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